

Prometheus Radio Project

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flame filching, wave snatching, people-powered radio!

11/13/07

To Chairman Kevin Martin, Federal Communications Commission

CC: Commissioners Adelstein, Copps, McDowell, and Tate, Media Bureau Chief Desai, Audio Division Chief Doyle

Dear Chairman Martin,

The Prometheus Radio Project appreciates your recent statement of interest in resolving the issues in the longstanding LPFM rulemaking. Most of your recommendations that were delivered at the October 31 hearing were reflective of some of the proposals we have made. However, they did not address our three greatest concerns in this proceeding. Low Power Radio encroachment was not mentioned. And the solution that you mentioned on translators would make some small impact on a few who have engaged in speculation activities, but does not address the overall lack of spectrum availability for LPFMs due to the opening of the translator window prior to a full opportunity for LPFM applications. The list also does not address our recommendations on greater technical flexibility in LPFM allocation. **We know, from your public comment, that your intention is to help LPFM, and there must be other elements to your plan besides what was briefly stated on October 31st.**

In terms of the recommendations that were mentioned in your statement, we clarify our position on each of them below:

- *Eliminate the rule prohibiting LPFM transfers and assignments and allow the sale of LPFM licenses, subject to certain limitations (such as a three year holding period).*

We prefer that LPFMs not be able to be sold for anything more than the cash value of the equipment. Creating a market in these licenses will lead to more of the speculation activities that we have already seen.

- *Reinstate the original LPFM rule that all authorization holders be local to the community and limit ownership to one station per permittee.* This is an excellent decision.
- *Clarify that repetitious, automated programming does not meet the local origination requirement.* This is a very helpful clarification.
- *Prohibit programs from being broadcast more than twice to meet the local origination requirement.* This is an excellent decision.
- *Expand the definition of local for rural communities.* This will help, so long as the distances set are not too far.

- *Permit AM broadcast station to operate on FM translator stations.* We believe this issue is premature. FM translators for AM stations should not be granted until LPFMs have had a full opportunity to apply for 100 watt radio licensees with the third adjacent restrictions removed. We oppose AM translators on FM until the LPFM proceeding has been completed, and a proper LPFM opportunity has occurred.
- *Permit sudden changes of more than 50 percent of the membership governing board.* We agree with this, so long as these changes are conditional upon the standards used by the bureau for processing these changes for full power non-commercial stations.
- *Impose a cap on the number of applications accepted from the 2003 translator filing window, thereby protecting LPFM service.* This is helpful, but not sufficient. Only a handful of opportunities would open up for LPFMs in this case. What is needed is a re-ordering of the priority between LPFMs and translator stations, to create a meaningful opportunity for new LPFM service.

In discussion with other parties to this debate, one new approach to limiting the extent of the preclusive affect of translators on potential LPFM stations is the following:

No originating station shall have more than 25 translators that repeat it that are primary to LPFM stations. Full power repeaters shall not be considered to be originating stations. Translators fed by way of full power repeaters shall be counted towards the total number of translators allowed to repeat the originating station which may be primary to LPFMs.

With this rule, translator owners could have as many repeaters as they wanted. But no station could be repeated more than 25 times and still have each translator have priority over a local group seeking to create a LPFM. Other rules based on ownership are also a possible remedy.

Other Matters:

Encroachment:

Our last filings on LPFM contain the array of options that we presented to help with the encroachment situation. In essence, we are willing to accept a solution wherein LPFMs remain secondary to full power stations and allows LPFM stations to be forced to change channels and technical parameters, so long as there is an alternate channel available of equal coverage and viability and the LPFM's expenses are paid.

Technical Flexibility:

With the technical flexibility issue, we would like the FCC to allow a separate filing window wherein LPFMs can file using the contour overlap rules rather than minimum spacing rules currently in place. LPFMs filing under that circumstance would be subject to the same limitations as translators in terms of spectrum priority. In our meeting before, you have said that you did not see this as a problem.

The actions spelled out so far in public statement, while helpful, do not reach the core of LPFM interests in this proceeding. They are secondary issues, largely clerical in nature. Low Power advocates would consider a rulemaking that only adopted these recommendations and closed other issues without relief for LPFM as a setback, not progress. We have waited for seven

years for the resolution of many of the rulemaking issues, and believe that our constituents deserve solutions on the truly substantive elements of this proceeding. The public record has been abundantly clear on the beneficial impacts on localism that real progress on LPFM would have.

We look forward to the earliest possible opportunity to discuss and clarify the full extent of the Commission's plan to address LPFM concerns.

Respectfully submitted,

Pete Tridish
Prometheus Radio Project